State of Washington to my son's wedding on Friday and back on Sunday, I didn't ride on the wings of wind. I didn't walk. I rode on the force of energy, as do all Americans when they fly or when they drive or when they are transported around the world.

Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I certainly conclude that that ought to be a priority—a national energy policy—and that we ought to be able to shape one in reasonable fashion in a couple of weeks. The House has already moved legislation. They have passed a national energy policy.

Well over a month and a half ago, we began to mark up an energy policy bill for the Senate. I hope our leaders, Senator DASCHLE and Senator LOTT, will ask the Energy Committee to come together and stay together for the next couple of weeks to produce a bill to be debated on the Senate floor. Our President deserves a national energy policy as part of our overall national security strategy at this moment on his desk, acceptable and ready to sign.

I also believe we need to take a hard look at our intelligence community to make sure the shortcomings in predicting the events of the first Trade Center bombing, and the embassy bombing, and attack on the U.S.S. *Cole* and, of course, last week's attack do not recur.

We must do better. We cannot accept past performance. I agree with the assessments of my colleagues that a major reinvestment in our human intelligence capabilities is needed and it must take place through a reorganizational effort. We have the world's best when it comes to technological advancement. We can look down on any part of the world with such detail that from miles high we can read the watch on the arm of someone on the ground. But we cannot read what is in that person's mind. That is impossible with the technology of today. That comes from the human side of the capability I talk about, which we have been under-investing in, or divesting of, for the last several decades.

Clearly, we must get back into the minds of the citizens of the world—those who would do us damage and view our country as an enemy or an evil. It is only then that we can use the look-down from 3 miles high to determine where that person is going and when he or she may be there. But we must access the mind as well as observe the movement.

If we can accomplish all of those things—and I believe we can, and I believe our President will ask us to invest in those—then we will all stand in a bipartisan way to support it, because what is at stake here is the very strength of our country and the very freedom of our citizens. I have never once questioned the fact that we will not only stand for the test, but in the end, without question, we will win.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, what question is before the Senate?

The PRESIDING OFFICER. H.R. 2590.

Mr. BYRD. Has the Pastore rule run its course?

The PRESIDING OFFICER. Yes, it has.

Mr. BYRD. I thank the Chair. That being the case, I can speak out of order. Are there any restrictions?

The PRESIDING OFFICER. There is none.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

THE SENATE AND THE CONSTITUTION

Mr. BYRD. Mr. President, this is Constitution Week. Of course, I am talking about the U.S. Constitution. A point that all Governors and Senators might well remember: No State constitution in this country is like the Federal Constitution. No State's constitution so clearly and so strictly delineates the separation of powers as precisely as does the U.S. Constitution. So it is here in the Senate that the Constitution is defended—the U.S. Constitution—and it is here that we support the separation of powers, the checks and balances; and the one Constitution that we are bound by in this institution is the U.S. Constitution, a copy of which I hold in my hand. I want to take a little while today to talk about this Federal Constitution.

On Monday of this week we marked the 114th anniversary of the U.S. Constitution. Of course, the Senate was not in on Monday, and consequently I have been forced to wait until today to speak about the Constitution. Again, this is Constitution Week. In tragic and sad times, we instinctively reach for what matters most in our lives: Our faith, our families, and our fundamental rights as Americans.

As we struggle with the horrific events of September 11, we should take a measure of strength from the events of another September day, an 18th century September day.

On September 17, 1787, an extraordinary convention of American statesmen, meeting at Independence Hall in Philadelphia, adopted the Constitution of the United States of America. My memory may prove me wrong, but I believe that, too, was a Monday—as was September 17, in 2001, this year of our Lord. So today I wish to commemorate that singular event by discussing several of the constitutional provisions that shape the structure and guide the operations of the U.S. Senate. I think there will never be a better time, or a more propitious time, or a time when we more need to think and to speak of the Constitution of the United States, than this time, and amidst the circumstances that have attracted the attention and galvanized the attention of Americans, wherever they may live—in this country or elsewhere—as well as the people of other countries. So it is timely to think about the Constitution of the United States.

Imagine a U.S. Senate in which the State of West Virginia was assigned three Members while California was entitled to 30.

Or, consider a Senate in which Members served for life—or for just a single year.

How about a system in which the House of Representatives elected the Senate?

Or a Senate in which Members voted as a State block rather than as individuals?

To our modern ear, these options sound preposterous, perhaps, but to the Framers of the Constitution, these proposals deserved serious consideration.

There was nothing inevitable about the Constitution as we now know it. Every word required delicate construction, balancing, and refinement. In cases where the Framers could not fully agree on a particular point, they chose ambiguity—or even silence.

Among that charter's 55 draftsmen—only 39 actually signed the document—there existed a vast fund, a vast reservoir of knowledge about the operation of legislative bodies. That knowledge served the Framers well as they struggled to fashion the institutional structure of the United States Senate.

Let us examine some of the Senate-related options that the Convention's delegates confronted from the Convention's convening on May 25 until its adjournment on September 17.

First the issue of representation. Delegates representing large States at the Constitutional Convention advocated a strong national government. In Edmund Randolph's Virginia Plan, the number of Senators in each State would be determined by that State's population of free citizens and slaves. Large States, then, stood to gain the most seats in the Senate. As justification for this advantage, these delegates noted that their States contributed more of the Nation's financial and defense resources than did small States, and therefore, deserved a greater say in Government.

Small-State delegates countered with a plan designed to protect States' rights within a confederated system of government. Fearing the effects of majority rule, they, the small States, demanded equal representation in Congress. This was the system, they noted, that was then in effect under the Articles of Confederation. When the Convention agreed to divide the national legislature into two chambers, various Framers argued that every State should enjoy equal representation in both Chambers. In fact, some delegates threatened to withdraw from the Convention if it adopted any population-based representation plan.

Other delegates sought a compromise between large State and small State interests. As early as 1776, Connecticut's Roger Sherman—he is one of the

signers of the Constitution of the United States—Roger Sherman, as early as 1776 had suggested that the Continental Congress, in which each State had one vote, should be organized to represent people as well as States, and during the 1787 Convention, Sherman proposed the so-called ''Connecticut Compromise'' which provided population-based representation in the House of Representatives and equal State representation in the Senate.

Benjamin Franklin agreed that each State should have an equal vote in the Senate except in matters concerning money. The Convention's grant committee reported Franklin's motion with some modifications to the delegates early in July. Madison led the debates against that measure believing it to be an injustice to the majority of Americans. Some small State delegates were reluctant even to support proportional representation in the House.

On July 16, delegates narrowly adopted the mixed representation plan, the Great Compromise, giving States equal votes in the Senate. That is why we are here. The Presiding Officer would not be sitting where he is sitting today if there had not been a July 16 Great Compromise. The Official Reporter would not be here listening to me and taking down what I am saying. I would not be here. These young people who are our pages and who help us in so many ways to do our work for our constituencies would not be here. That was the Great Compromise, giving States equal votes in the Senate.

The compromise resolved the Convention's most divisive issue and created a Federal system of Government.

Senators already know what I am saying. Many people on the outside who are watching through that electronic eye up there know it. These things were taught long ago in the early years of a child's schooling, but this is Constitution Week. We need to be reminded, and now in the circumstances that confront this country and have confronted it especially since Tuesday, September 11, we must be reminded that we are to be guided by a constitution, the United States Constitution.

We must zealously guard the powers of the legislative branch in times like these when there is a war, when there is a military conflict. Powers have a way of gravitating toward the Chief Executive, and it is in times like those, in times like these, that we must be very zealous and jealous of the constitutional prerogatives and powers that are vested in this body, the legislative branch.

We must be on our guard more than ever because the Constitution lives and it will live when these circumstances are behind us, if and when they indeed are ever put behind us, and I assume that they will be put behind us at some point in time.

It might be a good thing to point out here, just to remind Senators that the Continental Congress met behind closed doors. The Congress, under the Articles of Confederation, met behind closed doors. The Constitutional Convention, where the Framers gave us this Constitution, met behind closed doors, with sentries at the doors and the windows drawn. So, there we have food for another speech, another day.

Be conscious of the Constitution and this institution (the Senate) and its prerogatives and its precedents, its rules. We need particularly now to be reminded of these things.

A second major issue related to the number of Senators allotted to each State. Once the convention's delegates established the principle of equal State representation in the Senate, they needed to determine how many Senators a State would be allotted. Few, if any, delegates considered that one Senator per State would be sufficient representation. Lone Senators might leave their State unrepresented in times of illness or other absences, and they would have no colleague to consult with on State-related issues. Additional Senators would make the Senate a more knowledgeable body and, perhaps, better able to counter the influence of the House of Representatives. But, some believed a very large Senate would soon lose its distinctive character, would lack the agility needed to effectively counterbalance the House, and would make it easier for Senators to escape personal responsibility for their actions.

Given these considerations, delegates had only a narrow choice regarding the number of Senators. During the Convention, they briefly discussed the advantages of two seats versus three. Gouverneur Morris of Pennsylvania, the man with the peg leg, stated that three Senators per State were necessary to form an acceptable quorum, while other delegates thought a third Senator would be too costly. On July 23, one week after the Great Compromise, only Pennsylvania voted in favor of three Senators. When the question turned to two Senators, Maryland alone voted against the measure, not because of the number, but because Luther Martin disagreed with the concept of per capita voting, which gave each Senator, rather than each State, one vote.

Both the Congress under the Articles of Confederation and the Constitutional Convention used a voting method that gave each State one vote. This system of block voting was meant to reinforce State solidarity, but it often frustrated those State delegations divided by controversial issues. The alternative, of course, was for Members to vote as individuals. Those Framers who had served in State legislatures had ample experience with the per capita system. At the Convention, they spent little time debating the two proposed voting methods. On July 14, Elbridge Gerry of Massachusetts stated that per capita voting in the Senate would ''prevent the delays and inconvenience that had been experienced in [the Continental] Congress and would give a national aspect and spirit to the management of business.'' One week later, Gouverneur Morris and Rufus King of Massachusetts added a per capita voting clause to their motion designating the number of Senators for each State. As I have already noted, Maryland's Luther Martin objected to the motion. A States' rights advocate, he regarded per capita voting as a departure ''from the idea of the States being represented in the second branch.'' Consequently, Martin convinced his fellow Maryland delegates to vote against the two-Senator, per capita measure. Supported by every State except Maryland, both the measure's clauses passed on July 23, allowing each State's two Senators to vote as individuals, though still subject to the influence of States, constituents, and party policies.

Because they did not have parties in those days, but I am speaking within the context of the current moment, the Constitution's Framers understood that no matter which method they chose for electing Senators, it would have a significant impact on the Senate's future relationships with the House, the people, and the States.

From the beginning, most delegates dismissed any notion of implementing the British House of Lords' peerage system based on heredity and title. This system contradicted the egalitarian notions outlined in the Declaration of Independence. The system set forth in the Virginia Plan received little support, as well. Had this measure passed, the House would have selected Members of the Senate from nominations offered by the State legislators. The Senate could not be expected to serve as an effective check on the very institution responsible for its Members' election.

Senators will recall that the Virginia plan was introduced by Gov. Edmund Randolph, a delegate from the State of Virginia, on May 29, 1787. It is easy for me to remember the date of May 29 because it was on that date, 64 years ago, that I married my wife Erma; 64 years ago on May 29.

The convention then considered a revised version of the Virginia Plan, which contained the clause, ''the Members of the Second Branch of the national Legislature ought to be chosen by the individual Legislatures.'' Most delegates easily accepted this election method, regarding it as the most ''congenial'' plan available. Only Pennsylvania's James Wilson criticized the idea. He believed that the State legislative method would ''introduce and cherish local interests and local prejudices.'' The alternative method, elections through popular vote, never gained the adherents it needed to become a viable option.

In Federalist 63, Madison defended the plan of election by State legislatures against those who feared indirect elections would transform the Senate into a ''tyrannical aristocracy.'' For

such an unlikely event to happen, the Senate, the State legislatures, the House of Representatives, and the people would all have to fall prey to corruption. Madison cited Maryland's successful experiment with indirect election. Elected by a unique electoral college system, the Senate in Maryland showed no symptoms of tyranny, and in fact, had built a reputation unrivaled by any other state in the Union.

Despite Madison's assurances, the system of indirect elections ultimately proved vulnerable to corruption. Following the Civil War, newspaper reporters accused State legislatures of accepting bribes or remaining willfully ''deadlocked,'' and therefore, unable to elect a Senator into office. Reformers reacted to these allegations by advocating a constitutional amendment that would provide for the election of Senators by popular vote. This one substantive correction to the Framers' handiwork for the Senate went into effect in 1913 as the Constitution's 17th amendment.

And, next, to the issue of term length. The 6-year Senate term represented a compromise between those Framers who wanted a strong, independent Senate and those who feared the possible tyranny of a Senate insulated from popular opinion. While few delegates to the 1787 Convention wanted to emulate the House of Lords' lifelong terms, or the Congress under the Articles Confederation's single-year terms, the Framers' reaction against these extremes helped shape their arguments for and against long terms in the Senate.

Delegates examined the experience of the various State legislatures. Although the majority of States set 1-year terms for both legislative bodies, five State constitutions established longer terms for upper house members. South Carolina's senators received 2-year terms. In Delaware, the senate had 3-year terms with one-third of the senate's nine members up for reelection each year. New York and Virginia implemented a similar class system but with 4-year terms instead of 3. Only Maryland's Senate featured 5-year terms, making that legislative body the focus of the convention's Senate term debates.

The delegates either praised Maryland's long terms for checking the excesses of lower-house democracy or feared them for the same reason. Some members of the Convention believed that even 5-year terms were too short to counteract the dangerous notions likely to emerge from the House of Representatives. In June, Madison, Edmund Randolph, and other convention delegates cited Maryland's experiences when they argued for long Senate terms. According to Madison, the senate of Maryland had never ''created just suspicions of danger.'' Far from being the more powerful branch, the senate had actually yielded too much, at times, to Maryland's House of Delegates. Unless the U.S. Senate obtained sufficient stability, Madison expected a similar situation under the new Constitution. He suggested terms of 7 years, or more, to counter the influence of the popularly chosen House of Representatives. Edmond Randolph believed that the primary object of an upper house was to control the larger lower house. He noted that Maryland's senate had followed this principle but had been ''scarcely able to stem the popular torrent.'' Seven-year terms, then, had a greater chance of checking the House than terms of 5 years or fewer.

On June 13, the convention took up a provision for 7-year Senate terms. This encountered heated criticism from several Framers. For Alexander Hamilton, only lifelong terms could check the ''amazing violence and turbulence of the democratic spirit.'' Other delegates preferred 4-year terms. Madison devised a 9-year-term proposal with one-third of the seats subject to election every 3 years. He received little support for this plan, but he argued in its favor until the final votes on June 26. On that date, and following the failure of his own measure, Madison joined the majority of his colleagues in voting for a 6-year term. In the Federalist papers, Madison argued that Maryland's experiment with 5-year terms proved that slightly longer terms posed no danger to bicameral legislatures. In fact, he expected the agreed-upon 6-year terms to have a stabilizing effect on the new national government. Long terms would control turnover in the legislature. Long terms would allow Senators to take responsibility for measures over time. Long terms would make Senators largely independent of public opinion.

The Articles of Confederation set no qualifications for delegates to the Continental Congress. It left these decisions up to the individual States. By contrast, convention delegates supported establishing membership limitations for House and Senate Members. Influenced by British and State precedents, they established age, citizenship, and residence qualifications for Senators, but voted against proposed religion and property requirements. There was a lot of sentiment especially on property requirements as to age. I might pay particular attention to that aspect.

The Framers debated the minimum age for Members of the House of Representatives before they considered the same qualification for Senators. Although James Wilson of Pennsylvania State stated that ''there was no more reason for incapacitating youth than age, where the requisite qualifications were found,'' other delegates were in favor of age restrictions. I'm glad they did not have their way. They were familiar with England's law requiring members of Parliament to be 21 or older. Some lived in States that barred individuals from serving in their upper chambers who had not attained the age of 21 or 25.

On June 25, 3 days after designating 25 as the minimum age for Representatives, delegates unanimously set a 30-year-minimum for Senators. In Federalist 62, Madison justified the higher age requirement for Senators. By its deliberative nature, the ''senatorial trust,'' called for a ''greater extent of information and stability of character,'' than would be needed in the more democratic House of Representatives. The Framers, not all of them by any means, trusted democracy.

As to citizenship, under English law, no person ''born out[side] of the kingdoms of England, Scotland, or Ireland'' could be a member of either house of Parliament. While some delegates may have admired the ''strictness'' of this policy, no Framers advocated a blanket ban on foreign-born legislators. Instead, they debated the length of time Members of Congress should be citizens before taking office. The States' residency qualifications offered moderate guidelines in this regard. New Hampshire's State senators needed to be residents for at least 7 years prior to election. In other States, upper house members fulfilled a 5-, 3-, or 1-year requirement.

The Virginia Plan introduced by Edmund Randolph, on May 29, made no mention of citizenship when it was introduced to the Convention. Two months later, the Committee of Detail reported a draft of the Constitution that included a 4-year citizenship requirement for all Senators. On August 9, Gouverneur Morris moved to substitute a 14-year minimum. Later that day, delegates voted against Senate citizenship requirements of 14, 13, and 10 years before settling on 9 years as a residency requirement. The issue of foreign birth was particularly important in the Senate, whose responsibilities would extend to the review of international treaties. While the Framers were concerned that the Senate, especially, might be subject to foreign influence, they did not wish to offend foreign allies or close the institution to meritorious naturalized citizens. The 9-year provision made the Senate requirement 2 years longer than that for the House of Representatives. On August 13, the Convention confirmed the 9-year requirement by a vote of 8 States to 3.

Inhabitancy: Although the Parliament of Great Britain repealed its residency law in 1774, no Convention delegates spoke against a residency requirement for Members of Congress. The qualification first came under consideration on August 6 when the Committee of Detail reported its draft of the Constitution. Article V, section 3 stated, ''Every member of the Senate shall be * * * at the time of his election, a resident of the state from which he shall be chosen.''

Two days later, Roger Sherman moved to strike the word ''resident'' from the portion of the clause that related to the House, and insert in its

place ''inhabitant,'' a term he considered to be ''less liable to misconstruction.'' Madison seconded the motion, noting that ''resident'' might exclude people occasionally absent on public or private business. Delegates agreed to the term, ''inhabitant,'' and voted against adding a time period to the requirement. The following day, they amended the Senate qualification to include the word, ''inhabitant'' and passed the clause by unanimous agreement.

We now turn to the issue of who gets to make executive and judicial nominations. Argued over the course of several weeks, the Constitution's nomination clause split the delegates into two factions. The first faction wanted the executive to have the sole power of appointment. The second wanted the Senate to have that responsibility. The second faction followed precedents that the Articles of Confederation and most of the State constitutions had established favoring legislative appointment. The Massachusetts constitution offered yet another approach. This third way particularly interested the convention delegates. For over 100 years, Massachusetts had divided the appointment responsibilities between its Governor, who made the nominations, and its legislative council, which confirmed the appointments.

Rather than adopt the Massachusetts model immediately, the delegates initially agreed to language that split the responsibility in a different way. The President would appoint executive branch officers, who would serve during his term, and the Senate would appoint members of the judiciary because they would hold their positions for life—a period most likely to exceed the tenure and authority of one President. However, the Framers in favor of a strong executive argued that Senate appointments would lead to government by a ''cabal'' swayed by the interests of constituents. Other delegates, fearful of monarchies, wanted to remove the President entirely from the appointment process. On September 4, the Committee of Eleven reported an amended appointment clause. Unanimously adopted on September 7, the clause, based on the Massachusetts model, provided that the President ''shall nominate, and by and with the advice and consent of the Senate, shall appoint'' the officers of the United States—certain officers.

As they debated the controversial treaty-making clause, the Constitutional Convention's delegates considered, but did not follow in whole, those precedents with which they were most familiar. In Great Britain, treaties were made by the king and, in certain cases, had to be approved by a majority vote in Parliament. The Continental Congress, which had no executive branch, dispatched agents to negotiate treaties. The treaties only went into effect after two-thirds, 9 out of 13, of the States approved the documents. This inefficient process was further complicated by the States' ability to enter into their own treaties. While the delegates agreed that the States could not continue to make treaties with foreign powers, they disagreed over the manner in which the United States should negotiate, draft, and ratify international agreements.

On August 6, the Committee of Detail reported a preliminary Constitution to the full Convention. Article IX, section 1 stated, ''The Senate of the United States shall have power to make treaties, and to appoint Ambassadors, and Judges of the Supreme Court.'' Throughout August and into the month of September, the delegates debated treaty-making as a separate issue from the rest of the clause. Several delegates opposed granting the Senate the sole control over treaty-making. It is a good thing that they did. While some wanted the executive to have that responsibility, others advocated involving both houses of Congress in the process. Small-State delegates, however, were inclined to keep the Committee of Detail's treaty clause because it gave each State an equal say in the adoption or rejection of treaties.

On September 4, the Committee of Eleven reported a treaty clause that appeased many of the delegates. This is what it said: ''The President by and with the advice and Consent of the Senate, shall have power to make Treaties.'' After further debate, the delegates unanimously approved the clause on September 7. However, the clause was taken up again, this time to add to it the words, ''But no treaty shall be made without the consent of two-thirds of the members present.'' Shortly thereafter, the Convention passed James Madison's addition, ''except in treaties of peace,'' which would be ratified by a simple majority vote. The next day, the delegates struck out the peace treaty exception and considered dropping the Senate supermajority requirement as well. However, after two delegates cited the Continental Congress' ''two-thirds of the States'' example, they voted to keep the two-thirds of the Senate provision.

Although adopted by the Convention, the treaty clause continued to stir debate in the period before the Constitution's ratification. As one of the clause's strongest proponents, Alexander Hamilton defended the provision in The Federalist 75. Remarkably, given the delegates' extreme dissension over treaty-making, he wrote, the clause ''is one of the best digested and unexceptionable parts of the plan.''

Let me pause here to say that we can witness the Convention as it worked. And we know that time after time after time the Convention would vote one way one day, and a few days later vote on the same matter again and vote a different way, and then perhaps vote again before the close of the Convention and arrive at an entirely different conclusion.

If the Convention had been open to the public, the Framers would have been severely restricted and constrained, and would have paused and thought once, twice, and three times, and more, before they would have changed their votes. They might, on a later date, have come to believe that in the earlier vote they had voted the wrong way.

By having the closed Convention, by meeting secretly, they were able to have full discussions of a matter, have a tentative vote, vote one way, perhaps a few days later vote a different way, and in the final analysis, in order to do the right thing, after considerable reflection and after hearing the arguments of others, vote again finally and, perhaps, differently.

That would have been very difficult to do had there been galleries, had there been the media, newspapers, had there been television—which, of course, there could not have been. It would have been difficult.

I say that to say that in some situations voting in executive session, in secret session, may, in the last analysis, be in the best interests of the country.

Early in the Convention, most delegates agreed that the inclusion of an impeachment provision would help to hold national officers accountable for their actions. Throughout the summer of 1787, committee members reported impeachment plans to the full Convention. The Virginia Plan proposed a supreme tribunal to hear and determine cases including, among other concerns, the ''impeachments of any National officers.'' On June 13, the Committee of the Whole amended the plan to provide that the President could be ''removable on impeachment of malpractices or neglect of duty.'' The revised measure did not specify the procedures for trying the President. In June and July, the Framers debated whether Congress should have a role in the impeachment process. Roger Sherman—there that Connecticut delegate is again—Roger Sherman asserted that the ''National Legislature should have the power to remove the Executive at pleasure.'' Virginia's George Mason objected to Sherman's plan, claiming that the President would become merely a ''creature of the Legislature.'' John Dickinson of Delaware countered with an unsuccessful motion to make the executive ''removable by National Legislature at request of majority of State Legislatures.''

You see, they were all over the place.

On August 6, the Committee of Detail reported that the House of Representatives ''shall have the sole power of impeachment'' and the executive ''shall be removed from his office by ''conviction in the Supreme Court, of treason, bribery, or corruption.'' Two weeks later, the committee added that ''the judges of the supreme court be triable by the senate, on impeachment by the house of representatives.''

Can you imagine what it would be like in this day and time to have a Constitutional Convention with all the doors open, the windows open, the galleries open, the media there? After

every vote, Members would rush out the door to get before a camera and explain their votes. Members would not later be able to easily change their minds and their votes upon more careful thought, upon more considered reflection.

So there are those today who would hem and haw and holler: Oh, we must not do this. We cannot do this. The people are entitled to hear everything we say.

Well, those Framers were very wise men. It was they who wrote this Constitution which I hold in my hand. Of course, there have been some amendments added later, but those men were wise men. And, remember, they were placing their lives, their fortunes, and their sacred honor on the barrelhead.

Of course, we had fought a war, but many of them were among those who voted on the Declaration of Independence in 1776.

The constitutional plan then went for review to a committee consisting of one member from every State represented at the Convention. The committee removed the full Supreme Court from the process. The report, influenced by the Massachusetts Constitution of 1780, stated, ''The Senate of the U.S. shall have power to try all impeachments [by the House of Representatives]''—naturally—''but no person shall be convicted without the concurrence of two thirds of the members present.'' Ah, there you have it now. Alexander Hamilton later explained this decision noting that no other institution would be sufficiently dignified—no other institution would be sufficiently dignified—or independent to handle the proceedings. The Framers debated the clause on September 8 and despite Madison's objection that the executive would become dependent on the legislature, the Convention, thank God, passed the final measure by a vote of eight States to two.

Mr. President, there are, of course, other provisions in the Constitution that guide the operations of the Senate. But, those that I have just discussed serve to stoke our appreciation for this extraordinary charter of government that we are talking about. In closing, let us consider the words of James Wilson, one of Pennsylvania's eight delegates to the Convention. Here is what James Wilson told a meeting of Philadelphia citizens several weeks after September 17, 1787:

> Perhaps there never was a charge made with less reason, than that which predicts the institution of a baneful aristocracy in the federal Senate. This body branches into two characters, the one legislative, and the other executive. In its legislative character, it can effect no purpose without the co-operation of the house of representatives: and in its executive character, it can accomplish no object, without the concurrence of the president. Thus fettered, I do not know any act which the Senate can of itself perform: and such dependence necessarily precludes every idea of influence and superiority. But I will confess, that in the organization of this body, a comprise between contending interests is discernible: and when we reflect how various are the laws, commerce, habits, population, and extent of the confederated States, this evidence of mutual concession and accommodation ought rather to command a generous applause, than to excite jealousy and reproach. For my part, my admiration can only be equaled by my astonishment, in beholding so perfect a system formed from such heterogeneous materials.

What a Constitution!

I have often thought that the Creator of heaven and earth also had his hand in the creation of the Constitution of the United States. Whenever, wherever did such another illustrious gathering of men ever occur? And why at this particular time? Had it been 5 years earlier, the Framers may have lacked the experience that they ultimately had gained under the Articles of Confederation which enabled them to add provisions that would avoid some of the problems with which they had been confronted under the Articles.

The country, such as it was at that time, the citizenry might not have yet had enough time—I say this particularly with reference to the leaders of the Convention and the other members—to so convincingly move them to the idea that mere amendments to the Articles of Confederation would not really be enough. There had to be a new start, a new beginning. They went outside the parameters of their authority to initiate that new beginning.

Had it been 5 years later, it might have been impossible, because by then we were seeing the excesses of the French Revolution, with men and women being hauled to the guillotine. And so perhaps that is where God had His hand. It happened at the right time. It brought together the right men, learned men, wise men, experienced men.

I thank Providence for this Constitution and for the men who had the foresight and the vision, the courage, the ability to listen to others and to change their minds. We can be thankful. But we should also be fully aware of our responsibilities to preserve that great document and to amend it only with great care and after great deliberation.

At this perplexing time in this year of our Lord 2001, we must be ever more on guard that we, as the elected Representatives of a great people, as we go forth, hold in our hands, as it were, the Constitution of the United States; that we resist any temptation because of the demands of the moment, the exigencies of the day, we resist the temptation to put that Constitution aside in order to avoid debate and expedite the business before the Senate. Let's not hesitate to ask questions. Let's look before we leap.

I yield the floor.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is not.

AMENDMENT NO. 1573

Mr. MCCONNELL. Mr. President, I send an amendment to the desk on behalf of myself and Senator BURNS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Kentucky [Mr. MCCONNELL], for himself and Mr. BURNS, proposes an amendment numbered 1573.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To authorize the Secretary of the Treasury to issue War Bonds in support of recovery and response efforts relating to the September 11, 2001, hijackings and attacks on the Pentagon and the World Trade Center)
>
> At the end of title VI, insert the following:
>
> SEC. . (a) From funds made available by this or any other Act, the Secretary of the Treasury may provide for the administrative costs for the issuance of bonds, to be known as 'War Bonds', under section 3102 of title 31, United States Code, in response to the acts of terrorism perpetrated against the United States on September 11, 2001.
>
> (b) If bonds described in subsection (a) are issued, such bonds shall be in such form and denominations, and shall be subject to such terms and conditions of issue, conversion, redemption, maturation, payment, and rate of interest as the Secretary of the Treasury may prescribe.

Mr. MCCONNELL. Mr. President, I rise today to offer an amendment which would authorize the Secretary of the Treasury to use such funds as he deems appropriate to establish and make available war bonds for purchase.

I am proud that along with a bill that Senator BURNS and I have offered which is pending as this amendment, there are at least four other measures which have been offered that would create a new investment vehicle for Americans who are anxious to contribute to the war on terrorism. Clearly, the Congress and the American people are anxious to establish such a program.

Each of the bills which have been introduced are similar. In fact, two of them adapt the language Senator BURNS and I originally introduced almost verbatim. It is safe to assume that the goal of each of the sponsors is identical. That goal is to develop a way for patriotic Americans to contribute directly to the effort to rebuild the broken and retaliate against the enemy of international terrorism.

How many times have we heard over the last few days from our constituents: What can I do to help? The war bond is a way to help.

There has been a great deal of wonderful and soaring rhetoric on display since the terrible attacks of September 11, 2001. These words have helped our Nation steel its resolve and recognize